

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**IN RE: REALPAGE, INC., RENTAL
SOFTWARE ANTITRUST
LITIGATION (NO. II)**

Case No. 3:23-md-3071
MDL No. 3071

This Document Relates to: ALL CASES

**DECLARATION OF CHRISTIAN P. LEVIS IN SUPPORT OF THE SCOTT & ROBINS
LEADERSHIP APPLICATION AND FOR THE APPOINTMENT OF LOWEY
DANNENBERG, P.C. TO THE PLAINTIFFS' STEERING COMMITTEE**

I, Christian P. Levis, pursuant to 28 U.S.C. § 1746, declare that the following is true and correct to the best of my knowledge and belief.

1. I am a member in good standing of the bars of the States of New York and New Jersey, the United States District Courts for the Southern and Eastern Districts of New York and the Districts of District of Columbia, New Jersey, Nebraska, and Colorado, the Judicial Panel on Multidistrict Litigation, and the Second and Ninth Circuit Courts of Appeals.

2. I am a partner of the law firm of Lowey Dannenberg, P.C. ("Lowey"), counsel for plaintiffs in the following actions that are part of the above-captioned multidistrict litigation (the "MDL"): *Goldman v. RealPage, Inc., et al.*, No. 3:23-cv-00552; *Weaver v. RealPage, Inc.*, No. 3:23-cv-00357; *White v. RealPage, Inc.*, No. 3:23-cv-00413; *Boelens v. RealPage, Inc.*, No. 3:23-cv-00338; *Kramer v. RealPage, Inc.*, 3:23-cv-00356; *Watters v. RealPage, Inc.*, No. 3:22-cv-01082 (M.D. Tenn. Dec. 30, 2022); and *Parker v. RealPage, Inc.*, No. 3:23-cv-00378.

3. Pursuant to this Court's April 19, 2023 Order (Dkt. No. 3) and June 1, 2023 Order (Dkt. No. 243), I submit this declaration in support of the Watters Plaintiffs' Leadership Application submitted by Scott+Scott Attorneys at Law LLP and Robins Kaplan LLP (the "Scott

& Robins Leadership Application”), and to seek appointment of Lowey Dannenberg, P.C. to the Plaintiffs’ Steering Committee as described in the Scott & Robins Leadership Application.

4. As explained below and in the accompanying firm resume of Lowey (attached as Exhibit A), I have been litigating complex class actions for more than a decade. During that time, Lowey has been appointed to leadership positions in many different complex cases. Based on this experience and my understanding of the circumstances of this MDL, I support the Scott & Robins Leadership Application.

5. I am familiar with the work of Scott + Scott Attorneys at Law LLP (“Scott+Scott”) and Robins Kaplan LLP (“Robins”) and currently serve as co-lead counsel with both firms in ongoing cases. *See* ¶¶ 7-10, below. In these roles, I have seen firsthand the dedication that both Scott+Scott and Robins bring to each case that they litigate. In every case where Lowey has worked with Scott+Scott or Robins, both firms have litigated with dedication and efficiency while exhibiting the utmost professionalism. Scott+Scott and Robins are perfectly suited to lead the Multifamily Plaintiffs in this MDL and I support the appointment of these two firms as interim co-lead counsel, as set forth in the Scott & Robins Leadership Application.

6. Below I also provide details in support of our appointment to the Watters Plaintiffs’ proposed Plaintiffs’ Steering Committee as chair of the Northeast Region.

I. Lowey Dannenberg, P.C. Has A Demonstrated Ability to Work Cooperatively, Professionally, and Respectfully with Others.

7. Lowey has worked closely with both Scott+Scott and Robins and has enjoyed a relationship of mutual professional respect with both firms.

8. Lowey has teamed up with Scott+Scott on a number of complex matters. Perhaps most notably, Lowey and Scott+Scott served as co-lead counsel in *In re GSE Bonds Antitrust Litig.*, No. 19-cv-1704 (S.D.N.Y.) (Rakoff, J.) where I was one of three Lowey attorneys appointed

to lead the case. Together, we were able to obtain a global settlement with all defendants for \$386 million settlement and meaningful compliance reforms. The American Antitrust Institute recognized myself and the other lead attorneys on the case in 2020 with an award for outstanding achievement in private enforcement for these results. Judge Rakoff also praised Lowey and Scott+Scott efforts in this case, noting their ability to “obtain[] valuable recompense and forward-looking protections for [their] clients” in the face of vigorous opposition from high-caliber adversaries, namely many of the largest international financial institutions. *See In re GSE Bonds Antitrust Litig.*, No. 19-CV-1704 (JSR), 2020 WL 3250593, at *4 (S.D.N.Y. June 16, 2020). Judge Rakoff also praised Lowey and Scott+Scott’s “high quality of . . . work, both in briefs and oral argument.” *Id.*

9. Lowey also serves as co-lead counsel with Scott+Scott in *In re Google Assistant Privacy Litigation*, No. 19-cv-04286 (N.D. Cal.), one of the largest privacy cases in the nation. After defeating several rounds of motions to dismiss, Lowey and Scott+Scott recently obtained a favorable class certification ruling that certified a class estimated to have millions of members.

10. Lowey has also worked as co-lead counsel with Robins. Right now, Lowey and Robins serve as interim co-lead counsel in *Wesch v. Yodlee, Inc.*, No. 20-cv-05991 (N.D. Cal.). Lowey and Robins represent a class of consumers whose data was surreptitiously collected and sold without their consent by Yodlee, Inc., one of the largest data and analytics companies in the world. Earlier this year, Lowey and Robins successfully defeated Yodlee’s motion for summary judgment.

11. Lowey has also successfully litigated alongside Hausfeld LLP. I currently lead a team of Lowey attorneys in *In re Wawa, Inc. Data Security Litigation*, No. 19-cv-06019 (E.D. Pa.), where Lowey and Hausfeld serve as interim co-lead counsel representing a class of financial

institutions affected by Wawa's failure to secure its credit card processing system. On March 10, 2023, we moved for preliminary approval of a \$28.5 million settlement on behalf of this class.

12. Lowey also demonstrates its respect for others through its commitment to diversity. Nearly one-third of Lowey's partners and more than 45% of Lowey's associates are women.

13. Lowey also maintains a standing committee for Diversity, Equity & Inclusion (the "DEI Committee") that regularly updates the firm's lawyers on issues facing historically underrepresented groups and sharing ways to become involved with related initiatives. The DEI Committee also provides information and resources to Lowey's attorneys in an effort to learn about and combat implicit bias, an important part of respecting both colleagues and adversaries. Recently, this included a firm wide "book club" around *New York Times* Best Seller "Blind Spot" by Mahzarin R. Banaji and Antony G. Greenwald, which aims to explore the hidden biases people develop from their own experience.

II. Lowey Has Extensive Experience Litigating Complex Antitrust Class Actions.

14. Lowey is a pioneer in antitrust litigation, and a preeminent law firm for parties harmed by anticompetitive conduct in complex markets. Since its founding, Lowey has spearheaded many of the most novel and complex antitrust class actions ever prosecuted. *See* Exhibit A (Lowey firm resume). Lowey has recovered more than \$1.5 billion dollars on behalf of antitrust plaintiffs in the last decade alone, including in litigation against some of the most sophisticated defendants and the largest financial institutions in the world. A small sample of recent antitrust matters that Lowey has successfully litigated as lead or co-lead counsel are below:

- a. ***In re GSE Bonds Antitrust Litigation, No. 19-cv-1704 (S.D.N.Y.) (Rakoff, J.):*** Lowey served as Court-appointed Co-Lead Counsel in an antitrust class action alleging that several of the world's largest banks and brokers conspired to fix the prices of debt securities issued by government sponsored entities (e.g., Fannie Mae, Freddie Mac, Federal Farm Credit Banks, and Federal Home Loan Banks) between 2009 and 2016. On June 16, 2020, Judge Jed S. Rakoff finally approved settlements with all defendants totaling more than \$386 million. In addition to the substantial financial recovery in the case, Lowey

worked closely with its client, the Treasurer of the Commonwealth of Pennsylvania, to curb future misconduct and successfully negotiated settlement provisions that required each defendant to maintain or create a compliance program designed to prevent and detect future anticompetitive conduct in the GSE Bond Market.

b. ***Sullivan, et al. v. Barclays plc, et al., No. 13-cv-2811 (S.D.N.Y.) (Castel, J.):*** Lowey is co-lead counsel responsible for prosecuting claims against international financial institutions responsible for setting the Euro Interbank Offered Rate (“Euribor”), a global reference rate used to benchmark, price and settle over \$200 trillion of financial products. Co-Lead Plaintiffs include the California State Teachers’ Retirement System (“CalSTRS”). So far, Lowey Dannenberg has recovered a total of \$546.5 million for Euribor-based derivatives investors, which total includes: a \$94 million settlement with Barclays plc and related Barclays entities; a \$45 million settlement with Defendants HSBC Holdings plc and HSBC Bank plc; a \$170 million settlement with Defendants Deutsche Bank AG and DB Group Services (UK) Ltd.; and a \$182.5 million settlement with Defendants Citigroup Inc., Citibank, N.A., JPMorgan Chase & Co. and JPMorgan Chase Bank, N.A. Most recently, Judge Castel granted final approval of an additional \$55 million settlement with Defendants Crédit Agricole S.A. and Crédit Agricole CIB on November 15, 2022. The claims against the remaining defendants in the case are presently on appeal before the United States Court of Appeals for the Second Circuit.

c. ***Fund Liquidation Holdings LLC v. Citibank N.A., No. 16-cv-5263 (S.D.N.Y.) (Hellerstein, J.):*** Lowey serves as lead counsel in a class action alleging that the 20 global financial institutions responsible for setting the Singapore Interbank Offered Rate (“SIBOR”) and the Singapore Swap Offer Rate (“SOR”) manipulated these benchmark rates to benefit their own derivatives positions at the expense of U.S. investors from January 2007 – December 2011. On March 17, 2021, the Second Circuit Court of Appeals vacated dismissal of the action and remanded the case to Judge Hellerstein for further proceedings. On November 29, 2022, Judge Hellerstein granted final approval of seven settlements totaling \$155,458,000 with all Defendants in the case.

15. In addition to Lowey’s extensive antitrust experience, the firm is regularly involved in highly technical cases, including those in the data privacy space, involving algorithms and artificial intelligence issues that are central to this litigation. My own personal experience as a mobile application developer is especially relevant in this context. I have often leveraged my technical expertise to better serve Lowey’s clients and the classes that I have been appointed to represent. *See Frasco v. Flo Health, Inc., No. 21-cv-00757 (N.D. Cal.)* (representing consumers alleging that their health data was disclosed to some of the largest data analytics companies in the world and defeating motions by Google and Meta to dismiss first-of-their-kind aiding and abetting

claims against them); *Barr, et al. v. Drizly, LLC, et al.*, No. 1:20-cv-11492 (D. Mass.) (securing \$7.1 million settlement in a data breach action against one of the largest alcohol delivery companies); *Hozza v. PrimoHoagies Franchising, Inc.*, No. 20-cv-4966 (D.N.J.) (representing cardholders impacted by data breach resulting from malware on restaurant chains ordering system).

III. Lowey Dannenberg, P.C. Is Willing to Commit the Attorneys and Resources This Litigation Requires.

16. Lowey boasts a roster of more than 40 attorneys with more than 75% of the lawyers at the firm having spent more than three years at Lowey. This continuity means that nearly all of Lowey's attorneys have first-hand experience working on the complex antitrust class actions like the ones described above and are able to work together as a team to litigate cases effectively and efficiently.

17. Lowey has also donated its resources to consumers in need of legal services to address housing issues, including by representing foreclosure defendants *pro bono*.

18. Joining me in litigating this case are associates Peter Demato and Radhika Gupta, both of whom have experience in complex antitrust matters. For instance, Mr. Demato is a key member of the Lowey team that serves as co-lead counsel in *Ploss, et al. v. Kraft Foods Group, Inc., et al.*, No. 15-cv-2937 (N.D. Ill.), a complex class action alleging antitrust and commodities manipulation claims based on Kraft's alleged manipulation of wheat futures prices. Mr. Demato has also logged more than 100 hours of *pro bono* work over the last two years defending homeowners in foreclosure litigation.

19. Ms. Gupta works closely with other Lowey attorneys as co-lead counsel in *Batton, et al. v. The Natl. Assoc. of Realtors, et al.*, No. 21-cv-0430 (N.D. Ill.), an antitrust class action alleging that the largest real estate brokers in the United States conspired with the National

Association of Realtors to implement anticompetitive measures that reduced price competition for buyer-side real estate agents. Ms. Gupta has taken an active role in the case from day one and was instrumental in researching and filing the case.

IV. Lowey Dannenberg, P.C. Has the Resources to Advance the Litigation in a Timely Manner.

20. Lowey is a versatile firm with both the resources to handle complex, protracted litigation and the agility to advance sprawling class actions in a fast and efficient manner. The firm routinely advances millions of dollars on behalf of clients to fund their cases and is not receiving any external litigation funding here.

21. As an example of this dedication, Lowey has routinely litigated appeals where necessary to protect its clients' rights. When one of Lowey's cases was dismissed after a \$21 million icebreaker settlement had been agreed to, Lowey successfully appealed the decision to the Second Circuit. *See Fund Liquidation Holdings LLC v. Bank of Am. Corp.*, 991 F.3d 370, 389-90 (2d Cir. 2021), *cert. denied*, 142 S. Ct. 757 (2022). On remand, the District Court ultimately approved more than \$155 million in settlements in the case.

22. Lowey can also move quickly. For example, in *In re GSE Bonds Antitrust Litigation*, No. 19-cv-1704 (S.D.N.Y.), after Judge Rakoff set an aggressive schedule for discovery and trial, Lowey and Scott+Scott vigorously litigated the case and moved forward with discovery against more than 15 of the largest financial institutions in the world while also pursuing settlement negotiations.

23. As explained above, Lowey is willing to dedicate a roster of experienced attorneys to efficiently and expeditiously litigating this case. *See supra* ¶¶ 16-19.

V. Lowey Dannenberg, P.C. and the Plaintiffs We Represent Support the Appointment of the Other Steering Committee Members Proposed In the Scott & Robins Leadership Application.

24. I am familiar with the other firms who are seeking appointment to the Plaintiffs' Steering Committee as part of the Scott & Robins Leadership Application and Lowey has worked closely with many of these firms on other matters.

25. For example, Lowey currently serves as interim co-lead counsel with Korein Tillery, LLC in *Batton, et al. v. The Natl. Assoc. of Realtors, et al.*, No. 21-cv-0430 (N.D. Ill.), an antitrust class action alleging that the largest real estate brokers in the United States conspired with the National Association of Realtors to implement anticompetitive measures that reduced price competition for buyer-side real estate agents and caused supracompetitive prices for buyer-side agents' services. A motion to dismiss currently pending in *Batton*. See Minute Entry, ECF No. 102, *Batton, et al. v. The Natl. Assoc. of Realtors, et al.*, No. 21-cv-0430 (N.D. Ill. Jan. 25, 2023).

26. Lowey also worked closely with Cafferty Clobes Meriwether & Sprengel LLP ("CCMS") in *Boutchard v. Gandhi et al*, No. 18-cv-07041 (N.D. Ill.), where Lowey served as lead counsel and CCMS served as local counsel. Together, Lowey and CCMS were able to recover \$15 million (in addition to funds made available through a government settlement) on behalf of futures traders in a complex matter that was the first "spoofing" class action to obtain a recovery under the Commodities Exchange Act, 7 U.S.C. § 1, *et seq.*

27. I am also familiar with the work of the other firms seeking appointment to the Plaintiffs' Steering Committee proposed in the Scott & Robins Leadership Application, including The Joseph Saveri Law Firm, LLP, Kozyak Tropin & Throckmorton, and Stranch, Jennings & Garvey, PLLC.

28. Each of the law firms seeking appointment to the Plaintiffs' Steering Committee proposed in the Scott & Robins Leadership Application are highly respected and have substantial

experience litigating complex antitrust class actions. Like Lowey, these firms have all achieved outstanding results for clients and class members.

29. I support the appointment of these firms to positions on the Plaintiffs' Steering Committee, in addition to seeking the appointment of Lowey Dannenberg, P.C. to that Committee. I am confident that Lowey will work closely with both Scott+Scott and Robins, as well as the other proposed Plaintiffs' Steering Committee members, to advance this litigation on behalf of Lowey's clients and the proposed Class.

30. Finally, I have become familiar with Tricia Herzfeld, Esq. of Herzfeld, Suetholz, Gastel, Liniski, and Wall, PLLC throughout the early stages of this litigation. Ms. Herzfeld's knowledge and expertise concerning the practice of law in the Middle District of Tennessee, generally, and the Local Rules of Court of the Middle District of Tennessee. Based upon this experience, I support the appointment of Ms. Herzfeld as Plaintiffs' Liaison Counsel, consistent with the Scott & Robins Leadership Application.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of June, 2023 in White Plains, NY.

/s/ Christian P. Levis
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